IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 24525 of 1999

Between:

Yelugula Suryanarayana

..... PETITIONER

AND

The Chairman, Visakhapatnam Port Trust,
Visakhapatnam and another

.....RESPONDENTS

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings of the 1st respondent bearing No.A/Appeal/16117/86, dated 01.07.1988 confirming the proceedings of the 2nd respondent bearing No.EM/PC/3845/6804, dated 04.07.1986, as arbitrary and illegal, and consequently to direct the respondents to promote the petitioner as Assistant Foreman with retrospective effect with all benefits.

There is no necessity of going into all the details. It is suffice to notice that this writ petition is filed questioning the proceedings dated 01.07.1988 confirming the proceedings dated 04.07.1986. The proceedings dated 04.07.1986 were the subject mater of the writ petition before this Court in W.P.No.6273 of 1988. The said writ petition was disposed of with the following observations:

> "The learned counsel for the respondent produced the order disposing of the appeal by the appellate authority on 01.07.1988. The petitioner has challenged the order passed by the primary authority in this writ petition and the writ petition was filed on 21.04.1988. It is thus obvious that during the pendency of the writ petition the petitioner had filed an appeal against the impugned order already and the said appeal was disposed of pending the disposal of the writ petition. Hence, the writ petition has become infructuous as the impugned order no more survives and it is disposed of accordingly."

Now it is the contention of the learned counsel for the petitioner that since the said writ petition was disposed of observing that the appeal filed by the petitioner was already disposed of and the writ petition has become infructuous, the petitioner has right to challenge both the proceedings in the present writ petition. I am of the opinion that in so far as the proceedings dated 04.07.1986, the subject matter of earlier writ petition which was disposed of as having become infructuous. May be in a given case, the petitioner is entitled to challenge the appellate proceedings in view of such observations. But this is a case where the appeal filed by the petitioner was disposed of immediately after filing the earlier writ petition. The earlier writ petition was disposed of on 21.06.1999. Even this writ petition is also filed after more than

11 years of disposal of the appeal. Absolutely, there are no reasons furnished by the petitioner in the affidavit filed in support of the writ petition as to what prevented the petitioner from challenging the proceedings dated 01.07.1988 within reasonable time. Even otherwise, it was open to the petitioner to seek amendment of the prayer in the earlier writ petition. I do no know why such steps were not taken. I am of the opinion that the writ petition suffers from irretrievable laches, and therefore, it is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

_____

C.V.RAMULU,J

Dated:24.08.2005

Dsr